IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

FRIDAY, THE 5TH JANUARY 2007 / 15TH PAUSHA 1928

WP(C).No. 20331 OF 2006(U)

PETITIONER:

ANY HELP INFORMATION SERVICES (P) LTD.,
A COMPANY REGISTERED UNDER INDIAN COMPANIES-ACT
REP. BY ITS DIRECTOR APPUKUTTAN NAIR, S/O.
NARAYANAN NAIR, AGED 63 YRS, SUMESH BHAVANAM,
KARIKOD, THODUPUZHA EAST P.O., IDUKKI.

BY ADV. SRI.B.N.SHIVSANKAR

RESPONDENTS:

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1. BHARAT SANCHAR NIGAM LTD.,
REPRESENTED BY ITS GENERAL MANAGER,
ERNAKULAM, KOCHI-16.

2. THE CHIEF ACCOUNT OFFICER (TRV AS),
BSNL, CATHOLIC CENTRE, BROADWAY, KOCHI-31.

3. DEPUTY TAHSILDAR (R.R.),
THODUPUZHA, IDUKKI DISTRICT.

BY ADV. SRI.MATHEWS K.PHILIP,SC, BSNL

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R. RAMAN, J.

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W.P.(C) NO. 20331 OF 2006

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DATED THIS, THE 5TH DAY OF JANUARY, 2007

J U D G M E N T

Petitioner is a company incorporated under the Companies Act. The company was engaged in the business of providing information service to the public over the telephone connection provided by the respondents. For this purpose, the company was provided with a Universal Access Number (UAN) by the first respondent. According to the petitioner, this universal access number was said to be accessable from anywhere in the world in the respective Short Distance Call Area (SDCA). This facility was not provided in many of the exchanges where the company had opted for service. In spite of request, the first respondent could not provide a universal access number to many of the terminal numbers and as a result, petitioner has suffered damages. When demand was raised for recovery of the amount due for providing the facility, petitioner did not pay the same and as a result, revenue recovery proceedings are initiated against both the directors of the company as per Ext.P9. Challenging the said revenue

recovery proceedings, this writ petition is filed. Petitioner seeks reference of the dispute for arbitration under Section 7B of the Indian Telegraphs Act.

2. Heard both sides. The limited prayer made for referring the dispute for arbitration under Section 7B is found to be more feasible and appropriate especially when there is no other form for resolving the dispute otherwise than by way of a civil suit. In such circumstances, there will be a direction that in case petitioner pays 25% of the amount demanded as per Ext.P9 within a period of three weeks and files an application seeking reference of the dispute for arbitration under Section 7B of the Indian Telegraph Act, the concerned authority may refer the matter for arbitration as aforesaid. The revenue recovery proceedings initiated will be kept in abeyance until a final decision is taken by the arbitrator to be appointed under Section 7B of the Act. In case petitioner defaults payment of 1/4th of the amount as aforesaid, he will loose the benefit of this judgment.

3. Even though the learned counsel appearing for the petitioner contended that revenue recovery proceedings cannot be initiated against property of individual directors, learned counsel for the respondent brought to my notice the decision rendered in **Manu v. State of Kerala** (W.P.(C) 33359/2003) which was affirmed by the Division Bench in W.A. No.

962/2004. In such circumstances, I am bound by the decision of the Division Bench and this contention has to be held against the petitioner.

The writ petition is disposed of as above.

P.R. RAMAN,
JUDGE.

knc/-